IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1743 OF 1998

M/s. Simplex Concrete Piles (I) Limited & Another .. Petitioners.

V/s.

Union of India & Others .. Respondents.

Mr.Y.K. Sharma i/b. Ms.Rekha Panchal for the petitioners.

Mr.P.S. Jetly with Mr.Y.R. Mishra for the respondents.

CORAM : R.M. LODHA &
J.P. DEVADHAR, JJ.

DATED : 16TH MARCH, 2006.

P.C. :

The petitioners approached this Court by filing this writ petition in challenging the show cause notice-cum-demand dated 3rd August, 1998. It is admitted position before us that in view of the interim order passed by this Court, no adjudication order has been made by the authorities pursuant to the show cause notice.

2. In our considered view it would be in the fitness of things if the respondent No.3 adjudicates the matter pursuant to the show cause notice dated 3rd August, 1998 issued to the petitioners. It is only in the adjudication proceedings it would be

decided whether during the period from 1st March, 1997, the petitioners were rightly called upon to pay excise duty on the ready mix concrete or they were not liable to pay excise duty in respect of concrete mix prepared by them at their customers site as is the petitioners case.

3. We, accordingly, feel that the diverse contentions raised in the writ petition need not be examined by us and it would be proper if the respondent No.3 concludes the adjudication proceedings pursuant to the show cause notice.

4. Hence, the order :

i) The respondent No.3 shall conclude the adjudication proceedings pursuant to the show cause notice dated 3rd August, 1998 as early as possible and preferably within four months from the date of appearance of the petitioners.

ii) The petitioners shall appear before the respondent No.3 on 3rd April, 2006.

iii) Until the adjudication proceedings are concluded, no demand as set out in the

notice dated 3rd August, 1998 shall be raised.

iv) We record and accept the statement made on behalf of the respondents that the adjudication proceedings shall only relate to the period post 1st March, 1997.

v) All contentions raised in the writ petition are kept open to be agitated in the appropriate proceedings.

5. No costs.

(R.M. LODHA, J.)

(J.P. DEVADHAR, J.)